

TOWN OF DAVIE TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Mark A. Kutney (797-1101)
Prepared by: Marcie Nolan, Planner III

SUBJECT: Rural Lifestyle Initiative
Ordinance to establish an Open Space Design Overlay

AFFECTED DISTRICT: Districts 1, 2, and 4

TITLE OF AGENDA ITEM: Full title is attached.

REPORT IN BRIEF: The ordinance before Town Council this evening is based upon a series of public workshops and an analysis of the areas within Davie identified as containing rural qualities and characteristics. Staff has proposed creating an Open Space Design Overlay which would provide for large acres of open area in exchange for smaller lot sizes. The proposal, as drafted, would require that the minimum open space provided be at least 40% of the total site area, and the lot size to be no less than 20,000 square feet, although allowing for 10% of the total number of lots to be no less than 15,000 square feet. Waterbodies would be limited to no more than 10% of the required open space. This proposed ordinance would be a choice that the property owner would have, as an alternative to the traditional land development regulations, and would require a rezoning application approved by Town Council. This option is limited in geographical area, based upon the amount of large vacant parcels available and their proximity to natural resource areas.

PREVIOUS ACTIONS: On July 3, 2001 the Town Council initiated a Zoning in Progress to preserve the rural and equestrian lifestyle of the Town. Four public workshops (December 11, 2001, February 27, 2002, May 6, 2002, and May 14, 2002) were subsequently held to gather residents and elected officials knowledge and perspective on what rural qualities the Town desired to preserve.

CONCURRENCES: At the September 25, 2002 Local Planning Agency meeting, the ordinance was approved by a 4-1 vote, with Ms. Lee dissenting.

FISCAL IMPACT: n/a

RECOMMENDATION(S): Staff recommends approval of the ordinance.

Attachment(s): Text language and Ordinance

ORDINANCE _____

"AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE, CHAPTER 12, ADDING REGULATIONS TO PRESERVE OPEN SPACE IN THE ONE-UNIT PER ACRE LAND USE CATEGORIES BY CREATING THE OPEN SPACE DESIGN OVERLAY PROCESS; RENAMING ARTICLE IX THE RURAL LIFESTYLE REGULATIONS; ADDING DIVISION 5, ENTITLED "OPEN SPACE DESIGN OVERLAY"; PROVIDING FOR REGULATIONS TO PRESERVE THE RURAL LIFESTYLE CHARACTERISTICS OF THE TOWN OF DAVIE; ADDING SECTION 12-290, ENTITLED "INTENT, APPLICABILITY, DEFINITION, AND BOUNDARIES"; PROVIDING FOR INTENT, APPLICABILITY, DEFINITION, AND BOUNDARIES FOR THE OPEN SPACE DESIGN OVERLAY; ADDING SECTION 12-291, ENTITLED "OPEN SPACE OVERLAY PROCESS: PROVIDING FOR THE OPEN SPACE OVERLAY PROCESS; ADDING SECTION 12-292, ENTITLED "CRITERIA"; PROVIDING REGULATIONS BY WHICH TO REVIEW AN OPEN SPACE DESIGN APPLICATION; ADDING SECTION 12-293, ENTITLED "INCENTIVES"; PROVIDING FOR INCENTIVES WHEN UTILIZING THE OPEN SPACE DESIGN OVERLAY PROCESS; ADDING SECTION 12-294, ENTITLED "OPEN SPACE STANDARDS; PROVIDING FOR DEVELOPMENT STANDARDS; ADDING SECTION 12-295, ENTITLED "ACCESS AND ROADS"; PROVIDING FOR GUIDELINES IN THE DESIGN OF ACCESS POINTS AND ROADS IN AN OPEN SPACE DESIGN DEVELOPMENT; ADDING SECTION 12-296, ENTITLED "LANDSCAPE REQUIREMENTS"; PROVIDING FOR LANDSCAPE STANDARDS IN OPEN SPACE DESIGN DEVELOPMENTS; ADDING SECTION 12-297, ENTITLED "FENCING AND WALLS"; PROVIDING FOR REGULATIONS ON FENCING AND WALLS TO PRESERVE OPEN SPACE IN OPEN SPACE DESIGN DEVELOPMENTS; ADDING SECTION 12-298, ENTITLED "OPEN SPACE MAINTENANCE AND OWNERSHIP"; PROVIDING FOR REQUIRED MANAGEMENT PLANS FOR OPEN SPACE, DOCUMENTS FOR THE OWNERSHIP OF THE OPEN SPACE AND PROVISIONS FOR THE DEDICATION OF OPEN SPACE TO THE TOWN; PROVIDING FOR REVISED DEVELOPMENT STANDARDS FOR THE AG, A-1, AND R-1 ZONING DISTRICTS TO PROVIDE FOR THE MAINTENANCE OF THE RURAL CHARACTERISTICS IN THE TOWN; AMENDING SECTION 12-72, ENTITLED "OPEN SPACE USES, LIMITATIONS"; PROVIDING FOR LANGUAGE TO ALLOW THE OPEN SPACE DESIGN PROCESS TO SUPERCEDE; AMENDING SECTION 12-307, ENTITLED "REVIEW FOR REZONINGS"; PROVIDING FOR THE REVIEW OF OPEN SPACE DESIGN OVERLAY UTILIZING THE FINDING OF FACT FOR REZONINGS; AMENDING SECTION 12-306, ENTITLED "PROCESSING"; PROVIDING FOR OPEN SPACE DESIGN TO

FOLLOW THE PROCESSING REQUIREMENTS OF A REZONING APPLICATION; AMENDING SECTION 12-372, ENTITLED "SITE PLAN SUBMISSION REQUIREMENTS"; PROVIDING FOR REQUIREMENTS FOR AN OPEN SPACE DESIGN DEVELOPMENT PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY, PROVIDING FOR INCLUSION IN THE TOWN CODE; AND PROVIDING FOR AN EFFECTIVE DATE."

WHEREAS, the Town Council of the Town of Davie declared a zoning in progress pursuant to Section 12-315 to implement the voters referendum approved on March 12, 2001 to identify and preserve the remaining rural and equestrian areas within the Town; and

WHEREAS, the Town of Davie held public workshops on December 11, 2001, February 27, 2002, May 6, 2002 and May 14, 2002 to identify strategies to successfully preserve and protect the remaining rural and equestrian areas within the Town; and

WHEREAS, the Town Council has determined that review of land development regulations are necessary to assure that the rural and semi-rural character of the Town is preserved; and

WHEREAS, the Town desires to amend the land development regulations to provide for open space design as a planning technique designed to preserve large open portion on a site at time of development with a reduced individual lot size; and

WHEREAS, public hearings noticed in accordance with Florida laws were held on October 2, 2002 and the date of adoption of this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA.

SECTION 1. That Code of Ordinances of the Town of Davie is hereby amended to create Article IX of Chapter 12, Division 5, entitled Open Space Design Overlay and to amend those of the Town Code as follows:

Section 12-72, is amended to read as follows: Open space uses, limitations.

The open space land in open space developments, excluding Open Space Design development as stated in Section 12-290, or planned developments may include active and passive recreational areas, natural areas, citrus groves, bufferyards, stormwater retention areas, trails and areas intended to provide amenities to surrounding uses. A maximum of 15% of the required open space may contain permitted recreational structures, such as community stalls, clubhouses, pools, playgrounds.

In Open Space Design developments, no more than 10% of the required open space shall contain waterbodies.

Adding Division 5. entitled Open Space Design Overlay, as follows:

Article IX. Rural Lifestyle Regulations

Division 5. Open Space Design Overlay

12-290. Intent, Applicability, Definition, and Boundaries

Intent. It is the intent of these regulations to offer an alternative to traditional subdivisions through the use of Open Space Design, as approved by Town Council through the overlay rezoning process, in locations conducive to such a site design process.

Specifically, the Open Space Design Overlay is intended to:

1. Provide greater innovation and flexibility in the design of residential developments;
2. Encourage the permanent preservation of open space, agricultural land, wildlife habitat, or other natural resources including wetlands, and historical and archeological resources in a manner that is consistent with the Town's Comprehensive Plan; and
3. Encourage a form of development that consumes less open land and conforms to existing natural features better than the 35,000 square foot minimum size lot.

These regulations are intended to preserve the traditional rural character of the town's land use pattern through the creation of large contiguous open areas abutting major road rights-of-way, recreational trails, and parkland or other lands of natural space or preservation areas.

Applicability. Only lands zoned AG, A-1, and R-1 shall be eligible for application of the provisions of these Open Space Design Overlay regulations. Upon approval pursuant to these regulations, the subject property shall be developed consistent with these regulations and the ordinance which approved the application.

The appropriate location of open space design shall be based upon the natural attribute of parcels of land as well as adjacent land uses. Open Space Design shall be an appropriate site design technique when adjacent to the following:

- (A) Adjacent to an agricultural or rural corridor as identified in Section 12-281. Division 2, entitled Scenic Corridor Overlay District.
- (B) Adjacent to a park and/or Environmental Sensitive Land (ESL) site.
- (C) Adjacent to an existing or proposed trail system of greater than 35 feet in width.

Definitions. The intent of required open space, pursuant to the Open Space Design Overlay is to provide for substantial open areas. In light of this intent section:

Open space shall mean any land used primarily for resource protection, agriculture where agricultural products are not sold on-site, recreational purposes, or areas otherwise left undisturbed and specifically excluding road rights-of-way, both public and private. Open Space also includes land for the preservation of natural areas, landscaping buffers adjacent to road right-of-way exclusively. Structures, tennis courts, recreational structures and non-pervious areas are permitted to be located within open space but shall not exceed 15% of the required open space. Retention and detention ponds shall not be considered open space.

This section shall supercede Section 12-72, entitled Open Space uses and limitations.

Contiguous shall be defined as being connected. Open space will still be considered connected if it is separated by a roadway or an accessory amenity. The Town Council may waive these requirements for all or part of the required open space where it is determined that allowing noncontiguous open space will

promote the goals of the ordinance and/or property identified conservation areas.

Boundaries. The Open Space Design Overlay shall apply to the following portions of the Town: Griffin Road on the north, University Drive on the west, the Florida Turnpike on the east and Stirling Road on the south, in conjunction with Flamingo Road on the east, 14th Street on the north, the Town limits on the west and south and as depicted on Map #1. Such boundaries are based on the amount of contiguous vacant land and the proximity of such lands to existing Town rural amenities such as trails, parks, and stables.

Map #1

12-291. Open Space Overlay Process

Open Space Design Overlay is permitted in the AG, A-1, and R-1 zoning districts, only in those areas identified in Section 12-290, and upon overlay rezoning approval by Town Council.

(A) An owner seeking to develop his/her property pursuant to these Open Space Design regulations shall submit an application containing the information set forth below on an application form approved by the Town Administrator Manager or his/her designee. The application shall require such other information deemed by the Town to be relevant to a determination as to whether the request for an Open Space Design overlay shall be approved. Any application shall be reviewed by the Planning and Zoning Board and must be approved by the Town Council through an ordinance for it to be deemed approved by the Town.

Figure #1

(B) Such application shall be evaluated and approved by Town Council through an Ordinance, based upon the following criteria:

1. How the proposed development contributes towards the creation of a network of open space and promotes accessibility from residential areas to green space;
2. How the proposed development locates the required open space to benefit both the development and the community of Davie.
3. How the proposed development addresses the long-term maintenance of the proposed open space, landscape and nature conservation areas.

(C) Regulatory Flexibility. To encourage flexibility and creativity consistent with the open space community concept, the Town Council may grant specific deviations from the requirements of the zoning ordinances for the yard and lot coverage standards as part of the approval process. This shall not include the ability to approve lots less than 15,000 square feet. Any regulatory modification shall be approved through a finding by the Town Council that the deviation shall result in a higher quality of development which more satisfactorily achieves the intent and purposes of these regulations than would be possible using the conventional zoning standards. Regulatory modifications are not subject to variance approval of the Planning and Zoning Board. All development conditions not contained in the underlying zoning districts shall be included in the ordinance which approves the application.

(D) Permitted Dwelling Types. Detached single family residential dwelling exclusively shall be permitted in the Open Space Design Overlay, through the rezoning overlay approval process.

(E) Density. The permitted density of residential uses within an open space community shall not exceed the density as designated in the comprehensive plan and as further elaborated within the corresponding zoning districts allowed by the underlying residential zoning district based upon the development standards in place at the time of application. Such density shall be established utilizing a yield plan as specified below.

Yield Plan. A yield plan shall be presented to Town staff, at time of a required pre-application conference to determine the maximum number of permitted dwelling units upon a particular parcel of land. Such plan shall be analyzed by staff based on the underlying zoning districts development regulations, subtracting road rights-of-way, easements, required wetland mitigation, or other natural resource lands from the base site area. In addition, conceptual stormwater retention plans shall also be provided to ensure that any proposed yield plan could be feasibly designed upon the subject site.

Figure #2

12-292. Criteria

The following design criteria and development criteria shall be incorporated into any approval granted pursuant to the open space design overlay district.

(A) Minimum Parcel Size. The overlay district shall apply to contiguous parcels of land 15 acres or more in size.

(B) Required Open Space. To compensate for the reduced lot size in Open Space Design, open space common to all lots shall be provided as set forth

herein. All designated open space shall be specifically identified by a recorded instrument restricting its use and setting forth maintenance responsibility.

(C) Minimum Open Space. In order to ensure creativity in the siting of lots based upon the proposed and existing natural amenities, a full range of lot sizes from 15,000 to over an acre are encouraged. To this end, the amount of open space shall be based upon the median lot size within a development. In no case shall the amount of open space be less than 40 percent of the total site area.

(D) Minimum Lot Size. The minimum size of a lot of record within the Open Space Design Overlay shall be at least 15,000 square feet, net dry. The number of lots less than 20,000 square feet, net dry, shall not exceed 10 percent of the total number of dwelling units.

(1) The minimum open space requirements in Open Space Design developments shall be as follows:

<u>Lot Size, net dry</u>	<u>Open Space Requirements</u>
<u>15,000-20,000</u>	<u>60%</u>
<u>20,001-25,000</u>	<u>50%</u>
<u>25,001-30,000</u>	<u>40%</u>
<u>30,001-35,000</u>	<u>30%</u>
<u>35,001-40,000</u>	<u>20%</u>

The percentage is based upon the number of units per category and the amount of required space per unit.

(E) Required Building Envelope.

- (1) Housing envelopes shall be no closer than 50 feet between any other building envelope.
- (2) Minimum spacing between building envelopes and parcel tract boundary or off-site public street: 50 feet.
- (3) No building envelope shall be placed closer than 15 feet to any lot line.
- (4) Minimum spacing of building envelope from public rights-of-way ~~on-site~~ ~~public~~, private street, access drives, or common driveways: 35 feet.
- (5) Minimum setback of building envelope from lakes or ponds: 100 feet.

(F) Modifications of Yard and Lot Requirements. The front-yard setback for all lots fronting on public streets shall not be less than the front yard setback requirements for the respective underlying zoning districts in which they are located. Where it is determined that a plan demonstrates compliance with the intent of the Open Space Design, the minimum 35 foot setback may be provided, upon approval from Town Council

12-293. Incentives

(A) To encourage the development of Open Space Design communities, a maximum of 15 incentive points, as defined in Section 12-287, may be applied to an open space design.

(B) In addition, trails throughout a development shall count toward open space provided such trails are for the use of the general public. Private trails shall be excluded for counting toward open space for the purposes of these regulations.

(C) All open space areas, or portions thereof, may be utilized for agricultural activities, such as, but not limited to, equestrian facilities, tree farm and plant nursery.

12-294. Open Space Standards.

(A) Open space areas shall be contiguous to all other open areas within a development. Any such open space shall be not less than 50 feet in width. If adjacent to a roadway, the open space shall have a minimum of 100 feet of road frontage.

(B) Any proposed open space, unless conveyed to the Town, shall be subject to a recorded restriction enforceable by the Town, providing that such land shall be perpetually kept in an open state, that it shall be preserved exclusively for the purposes set forth herein, and that it shall be maintained in a manner which will ensure that is suitable for its intended purposes.

(C) Open space shall be contiguous. Contiguous shall be defined as being connected. Open space will still be considered connected if it is separated by a roadway or an accessory amenity. The Town Council may waive these requirements for all or part of the required open space where it is determined that allowing noncontiguous open space will promote the goals of the ordinance and/or property identified conservation areas.

(D) Waterbodies. A maximum of 10% of water area may qualify toward meeting the minimum open space requirements. —A maximum of 10% of the required open space shall contain waterbodies.

Figure #4

(D) Areas Not Considered Open Space. The following land areas are not included as dedicated open space for the purposes of this Division:

- (1) The area of any street right-of-way proposed to be dedicated to the public.
- (2) Waterbodies may count toward a maximum of 10% of the required open space, as stated in Section 12-294. ~~Surface systems, such as retention and detention ponds, shall not qualify towards the minimum open space required.~~
- (3) Areas within individual lot lines shall not count toward any open space.

Figure #5

12-295. Access and Roads

(A) Direct access onto a Town road shall be required to an open space community.

(B) Each area of common open space shall have a minimum of at least two (2) 15-foot-wide pedestrian access points accessible from a public roadway.

(C) Internal Roads. Construction of private roads as a means of providing access and circulation is encouraged in the Open Space Design Overlay, as provided for in Section 12-293. Private roads within an Open Space Design community are exempted from the minimum road right-of-way requirements of the Town of Davie, pursuant to Section 12-293, if the following findings are made:

- (1) A deed restriction is placed upon the project site that perpetually vests fee simple of the land area in the parties adjoining the road and prohibits future transfer to the public; and
- (2) A maintenance plan, including a means of guaranteeing maintenance assessments from the affected property owners, is reviewed and approved by the Town Council.

(D) Common driveways, if utilized pursuant to Section 12-294, shall count toward the lot area for only one of the lots served.

12-296. Landscape Requirements

All required landscape standards shall adhere to the landscape requirements of Section 12-285, Rural Lifestyle Regulations.

12-297. Fencing and Walls

All proposed fences and walls shall adhere to the design requirements of Section 12-286, Rural Lifestyle Regulations.

12-298. Open Space Maintenance and Ownership

(A) Open space areas are to be maintained by the respective homeowner association, unless the Town accepts a dedication of the property or parcel in question. If the Town does accept this responsibility it may choose to allow public access to all or part of the property or parcel in question.

(B) Required Management Plan.

(1) The dedicated open space shall be set aside by the developer through an irrevocable conveyance that is found acceptable to the Town Council, such as:

(a) Recorded deed restrictions;

(b) Covenants that run perpetually with the land, or

(c) A conservation easement established in accordance with Florida Law.

(2) Such conveyance shall assure that the open space will be protected from all forms of development, except as shown on the approved site plan, and shall never be changed to another use. Such conveyance shall:

(a) Indicate the proposed allowable uses of the dedicated open space.

(b) Require that the dedicated open space be maintained by parties who have an ownership interest in the open space.

(c) Provide standards for scheduled maintenance of the open space.

- (d) Provide for the maintenance to be undertaken by the Town in the event that the dedicated open space is inadequately maintained, or is determined by the Town to be a public nuisance, with the assessment of costs upon the property owners.
- (C) Open Space Ownership. The open space shall, at the Town Council's election, be conveyed to:
- (1) The Town;
 - (2) A non-profit organization, the principal purpose of which is the conservation of open space and any of the purposes for such open space set forth above;
 - (3) A corporation or trust owned jointly or in common by the owners of lots with the Open Space Design. If such corporation or trust is utilized, ownership thereof shall pass with conveyance of the lots in perpetuity. Maintenance of such open space and facilities shall be permanently guaranteed by such corporation or trust which shall provide for mandatory assessments for maintenance expenses to each lot. Each such trust or corporation shall be deemed to have assented to allow the Town to perform maintenance of such open space and facilities, if the trust or corporation fails to provide adequate maintenance, and shall grant the Town an easement for this purpose. In such event, the Town shall first provide fourteen (14) days written notice to the trust or corporation as to the inadequate maintenance, and, if the trust or corporation fails to complete, such maintenance, the Town may perform it and shall recoup all costs. Each individual deed, and the deed or trust or articles of incorporation, shall include provisions designed to effect these provision. Documents creating such trust or corporation shall be submitted to the Town Council for approval, and shall thereafter be recorded.

Section 12-306, is amended to read as follows: Processing

- (A) Application Submittal: Applications for rezonings, overaly rezonings for Open Space Design, special permits, variances and vacations or abandonment of rights-of-way shall be in the form of a petition filed

with the town development services department by any qualified applicant.

Section 12-30, is amended to read as follows: Review for rezonings.

(A) Planning and Zoning Board Review

...(k) Any such application for Open Space Design shall be evaluated and approved based upon the criteria listed above and the following criteria:

1. How the proposed development contributes towards the creation of a network of open space and promotes accessibility from residential areas to green space;
2. How the proposed development locates the required open space to benefit both the development and the community of Davie.
3. How the proposed development addresses the long-term maintenance of proposed open space, landscape and nature conservation areas.

Section 12-372, shall be amended as follows: Site plan submission requirements.

...(27) All site plan shall contain all of the information required by the applicable laws and ordinances governing the approval of subdivision, and in addition, shall show the following and any other information deemed necessary:

(1) In the Open Space Design Overlay, the following shall be submitted in addition to the requirements as stated above:

- (a) Yield Plan. A yield plan shall be presented to Town staff, at time of a required pre-application conference to determine the maximum number of permitted dwelling units upon a particular parcel of land. Such plan shall be analyzed by staff based on the underlying zoning districts development regulations, subtracting road rights-of-way, easements, required wetland mitigation, or other natural resource lands from the base site area.. In addition, conceptual stormwater retention plans shall also be provided to ensure that any proposed yield plan could be feasibly designed upon the subject site.
- (b) Site Context Map. This map shall illustrate the parcel in connection to its surrounding neighborhood. Based upon existing data sources and field inspections, it should show various kinds of major natural resource areas or features that cross parcel lines or that are located on adjoining lands.
- (c) Conservation Identification. In addition, applicants are required to demonstrate that the following Design Process was performed by a certified Landscape Architect and considered in determining the lay-out of proposed street, house lots, and open space.
 - (i) Step One: Identifying Conservation Areas. Identify preservation lands by two steps. First, Primary Conservation Areas (such as wetlands and floodplains) and Secondary Conservation Area (including mature trees stands, prime farmlands, wildlife habitats and cultural features such as historic and archeological sites and scenic views) shall be identified and delineated. Second, the Potentially Developable Area will be identified and delineated. To the maximum

extent feasible, the Potentially Developable Area shall consist of land outside identified Primary and Secondary Conservation Areas.

- (ii) Step Two: Locating House Sites. Locate the approximate sites of individual houses within the Potentially Developable Area and include the delineation of private yards and shared amenities, so as to reflect an integrated community, with emphasis on consistency with the Town's historic development pattern. The number of houses enjoying the amenities of the development should be maximized.
- (iii) Step Three: Aligning the Streets and Trails. Align streets in order to access the house lots. Additionally, new trails should be laid out to create internal and external connections to exiting and/or potential future streets, sidewalks, and trails.
- (iv) Step Four: Lot lines. Draw in the lot lines.

SECTION 4. All Ordinances or parts of Ordinances in conflict herewith are to the extent of such conflict hereby repealed.

SECTION 5. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion of this Ordinance.

SECTION 6. This Ordinance shall take effect immediately upon its passage and adoption.

PASSED ON FIRST READING THIS ____ DAY OF _____, 2002
PASSED ON SECOND READING THIS ____ DAY OF _____, 2002

MAYOR/COUNCILMEMBER

ATTEST:

TOWN CLERK

APPROVED THIS _____ DAY OF _____, 2002